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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/844,273 | 04/30/2001 | Siegfried Ruthardt | R.37659 | 1054 |

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RONALD E. GREIGG
GREIGG & GREIGG P.L.L.C.
1423 POWHATAN STREET, UNIT ONE
ALEXANDRIA, VA 22314

EXAMINER

GORMAN, DARREN W

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3752

DATE MAILED: 04/29/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,273

Applicant(s)

RUTHARDT ET AL.

Examiner

Darren W Gorman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 5,6,14-17,20,21 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 7 is/are rejected.
- 7) ☒ Claim(s) 2-4,8-13,18,19,22-24,26-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13. 6) ☐ Other:

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on December 20, 2002 was filed after the mailing date of the Application on April 30, 2001. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Minor Claim Suggestions By Examiner

2. The body of the claims of the present invention is understood by the Examiner, however the following changes are recommended to improve clarity. The claims have been examined on the merits including the suggested changes below.

Claims 7, 18, and 19 recite the limitation "the" in "the nozzle spring". "A nozzle spring" must be recited prior to this limitation to avoid lacking antecedent basis in the claims.

For the purpose of this office action, the claims will be examined as best understood by the examiner.

It should also be noted that claims previously withdrawn to non-elected species, specifically claims 6 and 16, also recite the same limitation and lack antecedent basis, as discussed above.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nishimura, European Patent Application EP0971118 A2.

Regarding claim 1, Nishimura discloses a common rail injector (1) for injecting fuel in a common rail injection system of an internal combustion engine, having an injector housing (3) which communicates with a central high-pressure reservoir and in which a nozzle needle (4) that cooperates with a valve piston (no reference number – see Figure 5) which is guided in a valve piece (30) is axially displaceable (see Figure 5; and column 5-6, paragraphs 0017-0020), wherein the end of the nozzle needle toward the valve piston protrudes into a guide sleeve (47), in which the end of the valve piston oriented toward the nozzle needle is received (see Figure 10; and column 10, paragraph 0043).

Regarding claim 7, Nishimura discloses all of the claimed elements as set forth in claim 1 above, and further discloses that the dimensions of the guide sleeve, on it's face end remote from the nozzle needle, are adapted to the dimensions of the nozzle spring (see Figure 10).

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishimura, USPN 6,102,302.

Regarding claim 1, Nishimura discloses a common rail injector (1) for injecting fuel in a common rail injection system of an internal combustion engine, having an injector housing (3) which communicates with a central high-pressure reservoir and in which a nozzle needle (4) that cooperates with a valve piston (no reference number – see Figure 5) which is guided in a valve piece (30) is axially displaceable (see Figure 5; and column 4, lines 21-67, and column 5, lines 1-5), wherein the end of the nozzle needle toward the valve piston protrudes into a guide sleeve (47), in which the end of the valve piston oriented toward the nozzle needle is received (see Figure 10; and column 8, lines 25-26).

Regarding claim 7, Nishimura discloses all of the claimed elements as set forth in claim 1 above, and further discloses that the dimensions of the guide sleeve, on its face end remote from the nozzle needle, are adapted to the dimensions of the nozzle spring (see Figure 10).

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Allowable Subject Matter

7. Claims 2-4, 8-13, 18, 19, 22-24, and 26-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. Applicant's arguments/remarks, see page 9, lines 7-24, of Paper #14, filed March 14, 2003, with respect to the rejection(s) of claim(s) 2, 3, 13, 18, 23, 26, 27, 29, and 30 under 35 USC § 112, and amendment to claim 3, see page 3, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

Further, Applicant's arguments, see page 9, line 25 through page 11, line 12, of Paper #14, filed March 14, 2003, with respect to the rejection(s) of claims 1, 4, 9, and 24 under 35 USC § 103, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a newly found prior art reference (see paragraphs 2-11 above).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Darren W Gorman whose telephone number is 703-306-4205. The examiner can normally be reached on M-F 8:00-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.

Darren W Gorman
Examiner
Art Unit 3752

DWG 4/25/03
DWG
April 25, 2003

Michael Mar
MICHAEL MAR 4-25-03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700